



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R04-OAR-2017-0390; FRL-9982-70-Region 4]

Air Plan Approval and Air Quality Designation; KY;

Redesignation of the Kentucky Portion of the Louisville Unclassifiable Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 4, 2018, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality (KDAQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the portion of Kentucky that is within the bi-state Louisville, KY-IN fine particulate matter (PM_{2.5}) unclassifiable area (hereinafter referred to as the “bi-state Louisville Area” or “Area”) to unclassifiable/attainment for the 2012 primary annual PM_{2.5} national ambient air quality standard (NAAQS). The bi-state Louisville Area consists of Jefferson County and a portion of Bullitt County in Kentucky, as well as Clark and Floyd Counties in Indiana. EPA is approving the State’s request and redesignating the Area to unclassifiable/attainment for the 2012 primary annual PM_{2.5} NAAQS based upon valid, quality-assured, and certified ambient air monitoring data showing that the PM_{2.5} monitors in the bi-state Louisville Area are in compliance with the 2012 primary annual PM_{2.5} NAAQS.

DATES: This rule will be effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2017-0390. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Sanchez can be reached by telephone at (404) 562-9644 or via electronic mail at sanchez.madolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 2012, EPA revised the primary annual NAAQS for PM_{2.5} at a level of 12 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), based on a 3-year average of annual mean PM_{2.5}

concentrations. *See* 78 FR 3085 (January 15, 2013). EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to particulate matter.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the CAA. On December 18, 2014, EPA designated the majority of areas across the country as nonattainment, unclassifiable/attainment, or unclassifiable¹ for the 2012 PM_{2.5} NAAQS based upon air quality monitoring data from monitors for calendar years 2011-2013. *See* 80 FR 2206 (January 15, 2015). EPA's January 15, 2015, rulemaking notice also described a process by which EPA would evaluate any complete, quality-assured, certified air quality monitoring data from 2014 that a state submitted for consideration before February 27, 2015. EPA stated that it would evaluate whether, with the inclusion of certified 2014 data, the 3-year design value for 2012-2014 suggests that a change in the initial designation would be appropriate for an area. If EPA agreed that a change in the initial designation would be appropriate, EPA would withdraw the designation announced in the January 15, 2015, notice for such area before the effective date and issue another designation reflecting the inclusion of 2014 data.

In a follow-up designation action published on April 7, 2015 (80 FR 18535), EPA designated five areas as unclassifiable/attainment in Georgia, including two neighboring counties in the bordering states of Alabama and South Carolina, that were initially deferred in EPA's

¹ For the initial PM area designations in 2014 (for the 2012 annual PM_{2.5} NAAQS), EPA used a designation category of "unclassifiable/attainment" for areas that had monitors showing attainment of the standard and were not contributing to nearby violations and for areas that did not have monitors but for which EPA had reason to believe were likely attaining the standard and not contributing to nearby violations. EPA used the category "unclassifiable" for areas in which EPA could not determine, based upon available information, whether or not the NAAQS was being met and/or EPA had not determined the area to be contributing to nearby violations. EPA reserves the "attainment" category for when EPA redesignates a nonattainment area that has attained the relevant NAAQS and has an approved maintenance plan.

January 15, 2015, rulemaking. In the same action, EPA changed the designations for one area in Ohio, two areas in Pennsylvania, and one bi-state area with portions in Kentucky and Ohio from nonattainment to unclassifiable/attainment. The bi-state Louisville Area was changed from nonattainment to unclassifiable.

On May 4, 2018, Kentucky submitted a request for EPA to redesignate the bi-state Louisville Area to unclassifiable/attainment for the 2012 primary annual PM_{2.5} NAAQS now that there is sufficient data to determine that the Area is in attainment. In a notice of proposed rulemaking (NPRM) published on May 30, 2018 (83 FR 24714), EPA proposed to approve the State's request to redesignate the Kentucky portion of the bi-state Louisville Area to unclassifiable/attainment for the 2012 primary annual PM_{2.5} NAAQS. The details of Kentucky's submittal and the rationale for EPA's actions are further explained in the NPRM. EPA did not receive any adverse comments on the proposed action.

II. Final Action

EPA is approving Kentucky's redesignation request and redesignating the Kentucky portion of the bi-state Louisville Area from unclassifiable to unclassifiable/attainment for the 2012 primary annual PM_{2.5} NAAQS.

III. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to unclassifiable/attainment is an action that affects the status of a geographical area and does not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to unclassifiable/attainment does not in and of itself create any new requirements. Accordingly,

this action merely redesignates an area to unclassifiable/attainment and does not impose additional requirements. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because redesignations are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

This final redesignation action is not approved to apply to any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the

Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 8, 2018.

Onis “Trey” Glenn, III
Regional Administrator,
Region 4.

40 CFR part 81 is amended as follows:

PART 81 – DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

2. In § 81.318, the table entitled “Kentucky-2012 Annual PM_{2.5} NAAQS” is amended under the heading “Louisville, KY-IN:” by revising the entries for “Bullitt County (part)” and “Jefferson County” to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY-2012 ANNUAL PM_{2.5} NAAQS
[Primary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Louisville, KY-IN:				
Bullitt County (part)	[Insert date of publication in the Federal Register]	Unclassifiable/Attainment.		
2010 Census tracts: 201.01, 201.02, 201.03, 202.01, 202.02, 203, 204, 205, 206.01, 206.02, 207.01, 207.02, 208, 211.01 and 211.02				
Jefferson County	[Insert date of publication in the Federal Register]	Unclassifiable/Attainment.		
**	**	*	*	*

¹ Includes areas of Indian country located in each county or area, except as otherwise specified.

² This date is April 15, 2015, unless otherwise noted.

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[FR Doc. 2018-17935 Filed: 8/17/2018 8:45 am; Publication Date: 8/20/2018]